

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE COMPLAINT

-of-

MILLER'S TUG AND BARGE, INC., et al.,

Petitioners,

-against-

JOHN MCLOUGHLIN, et al.,

Claimants.

IN THE MATTER OF THE COMPLAINT

-of-

TAPPAN ZEE CONSTRUCTORS, LLC, AS  
OWNER OF THE BARGE FF#14 FOR  
EXONERATION FROM OR LIMITATION  
OF LIABILITY,

Plaintiff-Petitioner.

USDC SDNY  
DOCUMENT  
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DATE FILED: 11/16/2022

20-CV-562 (ALC) (BCM)

20-CV-2657 (ALC) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

For the reasons stated on the record during today's telephonic status conference, it is hereby

ORDERED that:

1. Additional Fact Discovery.
  - a. No later than **November 23, 2022**, Counsel for Tappan Zee Constructors, LLC (TZC) and Miller's Tug and Barge, Inc. and Miller Marine, Inc. (together, Miller) shall meet and confer in real time (e.g., by telephone or videoconference) and in good faith, for at least one hour, regarding the 86 topics in TZC's June 14, 2022 notice of deposition issued pursuant to Rule 30(b)(6). In particular, counsel shall cooperate to determine which topics can be more efficiently addressed via Rule 34 document requests, and which are appropriate for live testimony by Miller's corporate designee at a further deposition session.
  - b. Promptly thereafter, and in no event later than **December 5, 2022**, TZC shall serve its supplemental Rule 34 document requests (limited to the topics about which the parties met and conferred and determined to be appropriate for such requests).

- c. As promptly as possible after receiving TZC's supplemental document requests, and in no event later than **December 15, 2022**, Miller shall respond and produce the requested documents. If there are no documents responsive to a specific request, Miller shall so state in its written response. If responsive documents exist but cannot be produced on the compressed schedule set out herein, Miller shall so state in its written response. If responsive documents exist but are being withheld on the basis of an objection, Miller shall so state, setting forth the objection with specificity, as required by Rule 34(b)(2)(B) and (C).
- d. No later than **December 24, 2022**, Miller shall produce one or more corporate designees, pursuant to Rule 30(b)(6), for up to 3.5 hours of additional testimony (limited to the topics about which the parties met and conferred and determined to be appropriate for live testimony).
- e. The requirements of § 7 of the Fifth Revised Case Management Order (Dkt. 72 in No. 20-CV-562; Dkt. 74 in No. 20-CV-2667) shall not apply to discovery applications concerning this additional fact discovery.

2. Expert Discovery. The parties have informed the Court that they plan to mediate after the exchange of written expert reports but before conducting expert depositions. Consequently, the expert discovery deadlines set forth in § 5 of the Fifth Revised Case Management Order are modified as follows:

- a. Opposing Liability Expert Reports from Miller, TZC, and Ballard Marine Construction, Inc. shall be served no later than **December 5, 2022**.
- b. Reply Liability Expert Reports by all parties shall be served no later than **January 6, 2023**.
- c. The deadline to complete expert depositions remains **January 31, 2023**, unless the parties submit a joint letter, no later than **January 6, 2023**, confirming that they have engaged a mediator and scheduled a date for the mediation. Upon receipt of the confirming letter, the Court will stay discovery until **February 28, 2023** and extend the deadline for the completion of all expert depositions to **April 14, 2023**.

The Clerk of Court is respectfully directed to close the motions at Dkts. 78 and 80 in No. 20-CV-562 and at Dkt. 75 in No. 20-CV-2667.

Additionally, the Clerk of Court is respectfully directed to revise the caption in No. 20-CV-562 to reflect the correct name of the party now listed on the docket as **MILLER'S MARINE, INC.** The correct name of the party is **MILLER MARINE, INC.**

Dated: New York, New York  
November 16, 2022

**SO ORDERED.**

  
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**BARBARA MOSES**  
**United States Magistrate Judge**